

FILED

JAN 19 2016

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

JAMES A. COUTURE,

Petitioner,

vs.

DAVID BERKEBILE; ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Respondents.

CV 15-80-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered findings and recommendations in this matter on December 10, 2015, recommending dismissal of Petitioner James A. Couture's ("Couture") petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254. Couture filed objections to the findings and recommendations on December 23, 2015, and so is entitled to de novo review of those findings and recommendations to which he specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). "Clear error exists if the Court is left with a

definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Notwithstanding the above, “[w]here a petitioner’s objections constitute perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original habeas petition, the applicable portions of the findings and recommendations will be reviewed for clear error.” *Rosling v. Kirkegard*, 2014 WL 693315 at *3 (D. Mont. Feb. 21, 2014) (citations omitted).

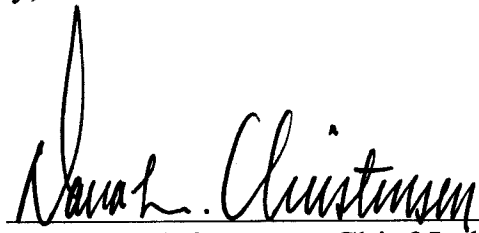
Having reviewed Couture’s objection, the Court finds that he fails to articulate any specific issue with Judge Lynch’s reasoning, and instead reiterates his perception that his constitutional rights have been violated in some manner. Accordingly, the Court reviews Judge Lynch’s findings and recommendations for clear error and, finding none,

IT IS ORDERED that Judge Lynch’s findings and recommendations (Doc. 11) are ADOPTED IN FULL. Couture’s petition for writ of habeas corpus (Doc. 1) is DISMISSED as time-barred without excuse.

IT IS FURTHER ORDERED that the Clerk of Court shall enter by separate document a judgment of dismissal.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 19th day of January, 2016.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge
United States District Court